



Signed and Filed: August 12, 2024

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re: ) Bankruptcy Case  
PG&E CORPORATION, ) No. 19-30088-DM  
- and - ) Chapter 11  
PACIFIC GAS AND ELECTRIC COMPANY, ) Jointly Administered  
Reorganized Debtors. )  
☐ Affects PG&E Corporation )  
☐ Affects Pacific Gas and )  
Electric Company )  
☒ Affects both Debtors )  
*\* All papers shall be filed in )  
the Lead Case, No. 19-30088 (DM). )*

**ORDER DENYING PETITION FOR WRIT OF MANDAMUS**

On August 7, 2024, Mathew L. Tyler filed a Petition for Writ of Mandamus (Dkt. 14566). In that petition, Mr. Tyler seeks to disqualify this judge from presiding over the present bankruptcy case involving the above debtors. Mr. Tyler cites 28 U.S.C. § 455(a) and (b) as authority for his request. While a petition for a writ of mandamus is not the appropriate remedy to disqualify a bankruptcy judge, Section 455 is the correct

1 statutory authority to seek that relief. Accordingly, the court  
2 will treat the petition as a motion to disqualify.

3 The principal argument presented in the petition to  
4 disqualify turns on his contention that debtor (presumably  
5 Pacific Gas and Electric Company, the utility), is a commodity  
6 broker as defined in 11 U.S.C. § 101(6) and as such is  
7 prohibited from filing chapter 11 under 11 U.S.C. § 109(d)).

8 Mr. Tyler's complaint about the presiding judge is that he  
9 previously presided over debtor's prior chapter 11 in 2001 and  
10 the present one in 2019. Also that he allowed the case to  
11 proceed under chapter 11. In doing so, Mr. Tyler alleges that  
12 the judge "demonstrated a personal bias for PG&E and prejudice  
13 against Creditors/Crime Victims." There are no specific  
14 instances cited that support the bias allegations.

15 Apart from complaining about debtors' qualification to file  
16 chapter 11, Mr. Tyler cites the California Constitution and  
17 several provisions of Title 18, Crimes and Criminal Procedure,  
18 pertaining to his contention that the presiding judge failed to  
19 order restitution for crime victims, that he was not alone in  
20 acting, and that he also violated Mr. Tyler's due process and  
21 equal protection rights afforded by the United States  
22 Constitution. There are no specifics or cited authority for  
23 this court to do anything for him here either.

24 Also in the petition, Mr. Tyler complains about conduct by  
25 his counsel, citing no authority for this court to do anything  
26 about those concerns. His remedy, if there is one, is  
27 elsewhere, not the bankruptcy court.

1       Because there is a dearth of factual allegations supporting  
2 disqualification, this court sees no basis to recuse from this  
3 case.

4       As for the eligibility of Pacific Gas and Electric Company  
5 or its parent, PG&E Corporation, there has been no suggestion  
6 throughout the five and a half years of this case by the United  
7 States Trustee, any secured creditor group, any wildfire victim  
8 group, any securities fraud group, or any other party in  
9 interest that either of the debtors is disqualified as a  
10 commodity broker. Mr. Tyler's contention is novel but  
11 unsupported. His only citation is one page extracted from a  
12 2010 Quarterly Procurement Transaction Compliance Report  
13 presumably filed by Pacific Gas and Electric Company. It makes  
14 some reference to commodity purchases and the like, but nowhere  
15 is there reason to suspect that a highly regulated public  
16 utility would at the same time be a commodity broker under any  
17 normal or reasonable definition. That is even more the case for  
18 its publicly owned holding company. More importantly, even if  
19 there was any merit to that contention, the matter has long ago  
20 been waived as statutory eligibility is not a jurisdictional  
21 matter, but rather a waivable contention. See *in re Mendez*, 367  
22 B.R. 109, 116 (B.A.P. 9th Cir. 2007) (issue was eligibility  
23 under 11 U.S.C. § 109(h) specifically, but discussion references  
24 eligibility under § 109 generally, all concluding that  
25 eligibility is not jurisdictional and thus waivable); *In re*  
26 *Wenberg*, 94 B.R. 631, 636-37, aff'd, 902 F.2d 768 (9th Cir.  
27 1990) (concluding that eligibility under § 109 is not  
28 jurisdictional).

1           For the foregoing reasons, the Petition for Writ of  
2 Mandamus is DENIED.

3                           \*\*END OF ORDER\*\*  
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